

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**TZVIA WEXLER,**

**Plaintiff,**

**v.**

**CITY OF PHILADELPHIA, et al.,**

**Defendants.**

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**Civil Action  
No. 19-5760**

**ORDER**

**AND NOW**, this \_\_\_\_ day of \_\_\_\_\_, 2021, upon consideration of Plaintiff's Motion to Compel the Depositions of Defendants James Koenig and Kelly Keenan [Dkt. 16], and Defendants' response thereto, it is hereby **ORDERED** that Plaintiff's Motion is **DENIED AS MOOT**.

**BY THE COURT:**

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**RESPONSE TO PLAINTIFF’S MOTION TO COMPEL THE DEPOSITIONS OF  
DEFENDANTS JAMES KOENIG AND KELLY KEENAN**

Defendants, James Koenig and Kelly Keenan (“Defendants”), by and through their counsel, Meghan E. Claiborne, hereby file this response to Plaintiff’s Motion to Compel the Depositions of Defendants James Koenig and Kelly Keenan [Dkt. 16] (the “Motion”). Defendants do not oppose the Motion and respond only to clarify the record.

As indicated in the Motion, counsel for Defendants provided availability for the depositions of Defendants on February 5, 2021. Motion, at Exhibit A. Plaintiff did not respond with confirmation of any dates for the depositions.

On February 15, 2021 – 10 days later – Plaintiff issued notices of subpoenas for Defendants for February 17 at 1:00PM and February 18 at 10:00 AM. Email and Notices, attached as Exhibit A. Four (4) minutes later, counsel for Defendants responded indicating that those times were no longer available and offered slightly revised times. Response Emails, attached as Exhibit B. Counsel for Plaintiff did not respond.

The next morning, February 16, 2021, counsel for Defendants followed up again requesting that Plaintiff confirm the revised times for the Depositions as soon as possible to allow sufficient

time to notify Defendants. *Id.* Counsel for Plaintiff indicated that they would speak with counsel for Defendants later that day. *Id.* Counsel for Plaintiff failed to do so.

Two (2) days later, on February 18, 2021, counsel for Plaintiff finally followed up asking if Defendants would object to taking the depositions after the discovery deadline. Emails re Objection, attached as Exhibit C. Counsel for Defendants responded 22 minutes later indicating that there was no objection to taking the depositions of Defendants after the close of discovery. *Id.*

### **CONCLUSION**

Plaintiff's Motion should be denied as moot. Defendants have consistently worked with Plaintiffs to facilitate the depositions of all parties and do not object to the depositions of Defendants after the close of discovery. Defendants will be produced for depositions at a mutually agreeable time and date.

Date: February 19, 2021

Respectfully submitted,

/s/ Meghan E. Claiborne  
Meghan E. Claiborne  
Deputy City Solicitor  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the date below, Defendant the City of Philadelphia's Motion to Dismiss Plaintiff's Complaint, was filed via the Court's electronic filing system and is available for viewing and downloading by all parties of record.

Date: February 19, 2021

Respectfully submitted,

/s/ Meghan E. Claiborne

Meghan E. Claiborne

Deputy City Solicitor

Pa. Attorney ID No. 315918

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